

Assembly Bill No. 450

CHAPTER 597

An act to amend Sections 7260, 7262.5, and 7264 of the Government Code, relating to housing.

[Approved by Governor October 1, 1997. Filed
with Secretary of State October 3, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 450, Torlakson. Housing: Relocation Assistance Act.

Existing law, known as the Relocation Assistance Act, requires a public entity to provide compensation and advisory services to any person, business, or farm operation that is displaced because of the acquisition of real property for public use. Existing law governs the provision of relocation assistance, including benefits for displaced persons, as defined, and procedural protections for persons required to move from their homes. For purposes of the Relocation Assistance Act, a person who is temporarily displaced for not more than 180 days, and who is offered occupancy of a comparable replacement dwelling unit located within the same apartment complex that contains the unit from which he or she has been displaced, is not deemed a "displaced person" if, among other conditions, the resident is offered the right to return to his or her original unit, with rent for the first 12 months subsequent to that return being the lower of (1) up to 5% higher than the rent at the time of displacement, or (2) up to 25% of household income.

This bill would revise the 2nd alternative of the above condition from 25% to 30% of household income.

Also, for purposes of the Relocation Assistance Act, "comparable replacement dwelling" is defined to mean, among other specified things, any dwelling that is, in the case of a displaced person who is a renter, one in which the monthly rental cost of the dwelling minus any replacement housing payment available to the person does not exceed 25% of the person's average monthly income. Additionally, under the act, rent supplements necessary to enable displaced tenants to lease or rent a comparable replacement dwelling extend for a period not to exceed 48 months, with the exception of supplements for displacements caused by publicly funded transportation projects, which extend for only 42 months.

This bill would revise the definition of "comparable replacement dwelling" for purposes of the Relocation Assistance Act by raising the percentage that a displaced person pays for housing expenses from 25% to 30% of the average monthly income as the standard of a replacement dwelling that is within the person's financial means

unless the displaced person meets one or more of specified conditions, and would reduce the period authorized for rent supplements necessary to enable displaced tenants to lease or rent a comparable replacement dwelling, from 48 months to 42 months unless the displaced person meets one or more of specified conditions.

The bill would specify that it would apply prospectively only from January 1, 1998, and only to the extent that its provisions would not adversely affect existing rights of persons or households entitled to benefits under existing provisions on or before December 31, 1997.

The people of the State of California do enact as follows:

SECTION 1. Section 7260 of the Government Code is amended to read:

7260. As used in this chapter:

(a) “Public entity” includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use and any person who has the authority to acquire property by eminent domain under state law.

(b) “Person” means any individual, partnership, corporation, limited liability company, or association.

(c) (1) “Displaced person” means both of the following:

(A) Any person who moves from real property, or who moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire or the acquisition of the real property, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with or acting on behalf of a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent. For purposes of this subparagraph, “residential tenant” includes any occupant of a residential hotel unit, as defined in subdivision (b) of Section 50669 of the Health and Safety Code, and any occupant of employee housing, as defined in Section 17008 of the Health and Safety Code, but shall not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.

(B) Solely for the purposes of Sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:



(i) As a direct result of a written notice of intent to acquire or the acquisition of other real property, in whole or in part, on which the person conducts a business or farm operation, for a program or project undertaken by a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of other real property on which the person conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent.

(2) The definition contained in this subdivision shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the public entity is otherwise empowered to acquire the property to carry out the public use. Except persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing which was made available to them on a permanent basis by a public agency and who are required to move from the housing, a “displaced person” shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.

(B) Any person whose right of possession at the time of moving arose after the date of the public entity’s acquisition of the real property.

(C) Any person who has occupied the real property for the purpose of obtaining assistance under this chapter.

(D) In any case in which the public entity acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

(3) (A) Notwithstanding Section 7265.3 or any other provision of law, a person who is temporarily displaced for not more than 180 days, and who is offered occupancy of a comparable replacement unit located within the same apartment complex that contains the unit from which he or she has been displaced, shall not be deemed a “displaced person” for the purposes of this chapter. This paragraph shall be applicable only if all of the following conditions are complied with:

(i) All other financial benefits and services otherwise required under this chapter are provided to the tenants temporarily displaced from their units.

(ii) The resident is offered the right to return to his or her original unit, with rent for the first 12 months subsequent to that return being

the lower of the following: up to 5 percent higher than the rent at the time of displacement; or up to 30 percent of household income.

(iii) The temporary unit is not unreasonably impacted by the effects of the construction, taking into consideration the ages and physical conditions of the members of the displaced household, and the estimated period of displacement is reasonable.

(iv) The property is a qualified affordable housing preservation project.

(B) For the purposes of this paragraph:

(i) “Apartment complex” means four or more residential rental units subject to common ownership and financing that are also located on the same or contiguous parcels.

(ii) “Qualified affordable housing preservation project” is any complex of four or more units whose owners enter into a recorded regulatory agreement, having a term for the useful life of the project, with any entity for the provision of project rehabilitation financing. For this purpose, the regulatory agreement shall require of the owner and all successors and assigns of the owner, as long as the regulatory agreement is in effect, that at least 49 percent of the tenants in the project shall have, at the time of the recordation of the regulatory agreement required by this section, incomes not in excess of 60 percent of the area median income, adjusted by household size, as determined by the appropriate agency of the State of California. In addition, a project shall be defined as a qualified affordable housing preservation project only if the beneficiary of the regulatory agreement elects this designation by so indicating on the regulatory agreement.

(d) “Business” means any lawful activity, except a farm operation, conducted for any of the following:

(1) Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property.

(2) Primarily for the sale of services to the public.

(3) Primarily by a nonprofit organization.

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(e) “Farm operation” means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator’s support.

(f) “Affected property” means any real property which actually declines in fair market value because of acquisition by a public entity



for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) “Public use” means a use for which real property may be acquired by eminent domain.

(h) “Mortgage” means classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(i) “Comparable replacement dwelling” means any dwelling that is all of the following:

(1) Decent, safe, and sanitary.

(2) Adequate in size to accommodate the occupants.

(3) In the case of a displaced person who is a renter, within the financial means of the displaced person. A comparable replacement dwelling is within the financial means of a displaced person if the monthly rental cost of the dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person does not exceed 30 percent of the person’s average monthly income, unless the displaced person meets one or more of the following conditions, in which case the payment of the monthly rental cost of the comparable replacement dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person shall not exceed 25 percent of the person’s average monthly income:

(A) Prior to January 1, 1998, the displaced person received a notice to vacate from a public entity, or from a person having an agreement with a public entity.

(B) The displaced person resides on property that was acquired by a public entity, or by a person having an agreement with a public entity, prior to January 1, 1998.

(C) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, initiated negotiations to acquire the property on which the displaced person resides.

(D) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, entered into an agreement to acquire the property on which the displaced person resides.

(E) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, gave written notice of intent to acquire the property on which the displaced person resides.

(F) The displaced person is covered by, or resides in an area or project covered by, a final relocation plan that was adopted by the legislative body prior to January 1, 1998, pursuant to this chapter and the regulations promulgated thereunder.

(G) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was required to have been submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was required to have been provided



to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations promulgated thereunder.

(H) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was provided to the public or to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations promulgated thereunder, and the person is eventually displaced by the project covered in the proposed relocation plan.

(I) The displaced person resides on property for which a contract for acquisition, rehabilitation, demolition, construction, or other displacing activity was entered into by a public entity, or by a person having an agreement with a public entity, prior to January 1998.

(J) The displaced person resides on property where an owner participation agreement, or other agreement between a public entity and a private party that will result in the acquisition, rehabilitation, demolition, or development of the property or other displacement, was entered into prior to January 1, 1998, and the displaced person resides in the property at the time of the agreement, provides information to the public entity, or person having an agreement with the public entity showing that he or she did reside in the property at the time of the agreement and is eventually displaced by the project covered in the agreement.

(4) Comparable with respect to the number of rooms, habitable space, and type and quality of construction. Comparability under this paragraph shall not require strict adherence to a detailed, feature-by-feature comparison. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features shall be present.

(5) In an area not subject to unreasonable adverse environmental conditions.

(6) In a location generally not less desirable than the location of the displaced persons dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(j) "Displacing agency" means any public entity or person carrying out a program or project which causes a person to be a displaced person for a public project.

(k) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(l) "Small business" means a business as defined in Part 24 of Title 49 of the Code of Federal Regulations.

(m) "Lead agency" means the Department of Housing and Community Development.

SEC. 2. Section 7262.5 of the Government Code is amended to read:

7262.5. (a) Notwithstanding Section 7265.3 or any other provision of law, tenants residing in any multifamily rental project of four or more units who are displaced from the project for a period of 180 days or less as part of a rehabilitation of that project, that is funded in whole or in part by a public entity, shall not be deemed permanently displaced if all of the following criteria are satisfied:

(1) All other financial benefits and services otherwise required under this chapter are provided to the tenants temporarily displaced from their units, including relocation to a comparable replacement unit.

(2) The resident is offered the right to return to his or her original unit, with rent for the first 12 months subsequent to that return being the lower of the following: up to 5 percent higher than the rent at the time of displacement; or up to 30 percent of household income.

(3) The estimated time of displacement is reasonable, and the project is a qualified affordable housing preservation project.

(b) For the purposes of this section, “qualified affordable housing preservation project” shall have the meaning set forth in subparagraph (B) of paragraph (3) of subdivision (c) of Section 7260.

SEC. 3. Section 7264 of the Government Code is amended to read:

7264. (a) In addition to the payments required by Section 7262, as a part of the cost of acquisition, the public entity shall make a payment to any displaced person displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by the person as a permanent or customary and usual place of abode for not less than 90 days prior to the initiation of negotiation by the public entity for the acquisition of the dwelling, or in any case in which displacement is not a direct result of acquisition, or any other event which the public entity shall prescribe.

(b) The payment, not to exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, unless the displaced person meets one or more of the conditions set forth in paragraph (3) of subdivision (i) of Section 7260, in which case the payment, which shall not exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 48 months. However, publicly funded transportation projects shall make payments enabling the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, including compensation for utilities, as provided in subdivision (b) of Section 24.402 of Part 24 of Title 49 of the Code

of Federal Regulations. Payments up to the maximum of five thousand two hundred fifty dollars (\$5,250) shall be made in a lump sum. Should an agency pay pursuant to Section 7264.5 an amount exceeding the maximum amount, payment may be made periodically. Computation of a payment under this subdivision to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(c) Any person eligible for a payment under subdivision (a) may elect to apply the payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the public entity, be eligible under this subdivision for the maximum payment allowed under subdivision (b), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment which the person would otherwise have received under subdivision (b) of Section 7263 had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of the negotiations.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration shall be given to assisting any displaced person 62 years of age or older to locate or lease or rent a comparable replacement dwelling.

SEC. 4. The amendments to Sections 7260, 7262.5, and 7264, made by this act shall apply prospectively only from January 1, 1998, and shall apply only to the extent that they do not adversely affect existing rights of persons or households entitled to benefits under this chapter on or before December 31, 1997.